

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ALLIED WORLD NATIONAL
ASSURANCE COMPANY

Plaintiff,

v.

JAMES R. BOLCH, PHILLIP DAMASKA, ED
MOPAS, JOHN HOGARTH, R. PAUL HIRT,
JR., EXIDE TECHNOLOGIES, and CRAIG
JALBERT, IN HIS CAPACITY AS TRUSTEE
OF THE VERNON TORT CLAIMS TRUST,

Defendants.

Civil Action No. 16-710 GMS

PARTIES' JOINT STATUS REPORT

Pursuant to the Court's Order of August 23, 2017, the parties hereby provide this Joint Status Report and advise the Court as follows:

This is a declaratory judgment action, in which plaintiff Allied World National Assurance Company (“Allied World”) alleges and seeks a declaration that, it owes no coverage to five current or former directors of Exide Technologies (“Exide”) under a Side A Directors' & Officers' (“D&O”) insurance policy. The five directors have asserted claims for coverage under the relevant D&O policy in connection with certain civil actions pending in California.

The defendants in this action are the five individual Exide directors; Exide itself; and Craig Jalbert, Trustee to the Vernon Tort Claims Trust (“the Trustee”). The Trustee has not consented to the jurisdiction of this Court with respect to this action, has not consented to the sufficiency of Allied World’s purported service of process, and has reserved all rights and defenses with respect to this action, including, without limitation, the following defenses: (i)

lack of subject-matter jurisdiction; (ii) lack of personal jurisdiction; (iii) improper venue; (iv) forum non conveniens; (v) insufficient process; (vi) insufficient service of process; (vii) failure to state a claim upon which relief can be granted; and (viii) failure to join a party under Fed R. Civ. P. 19. The directors and Exide reserve their rights with respect to all potential defenses, except insufficient service of process.

On November 16, 2016, the parties entered into and submitted to the Court a stipulation pursuant to which the parties stated their belief that mediation may achieve a consensual resolution to this action, and agreed to toll certain deadlines in this action (including, without limitation, the defendants' deadlines to answer, move, or otherwise respond to Allied World's complaint) to facilitate such mediation. [D.I. 9.] On November 17, 2016, the Court entered its order approving the stipulation, and ordered the parties to select a mediator within 30 days. [D.I. 10] The parties timely selected Timothy V.P. Gallagher of The Gallagher Law Group in Los Angeles in accordance with the Court's order, and held two separate mediation sessions, on January 23, 2017, and on June 15, 2017. All parties to this action participated in both mediation sessions. In addition, two other Side A D&O insurers, AIG and Chubb, while not parties to this action, participated in both mediation sessions.

Following the June mediation session, Mr. Gallagher submitted a mediators' proposal to the parties, in which he recommended a settlement that he deemed fair and reasonable. The parties have shared feedback on that proposal with Mr. Gallagher, and Mr. Gallagher twice has extended the parties' deadline to give a final decision with respect to that proposal. Most recently, Mr. Gallagher has directed that the parties decide whether to accept the proposed settlement on or before Friday, September 22, 2017.

The Parties are prepared to appear before the Court in person or by telephone to address the status of this action in further detail.

Respectfully submitted,

/s/ Scott J. Leonhardt

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